

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3220 of 1989

Date of decision: 7-7-1997

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

REVASHANKAR JIVRAM KATCHHI

Versus

STATE OF GUJARAT

Appearance:

MR PV HATHI for Petitioner
Mr. S. R. Divetia for Respondent No. 1
SERVED for Respondent No. 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 07/07/97

ORAL JUDGEMENT

Heard the learned counsel for the parties.

Challenge is made by the petitioner to the orders of the Secretary (Appeals), Revenue Department; Collector Bhavnagar and Assistant Collector, Palitana in connection with the land bearing survey No.103 of village Pratapgadh and the revenue entry No.468 made on 71-12-1980 and certified on 20th January, 1981 in respect of the petitioner. The land in dispute has been purchased by the petitioner and necessary entry in his name has been made in the revenue record. Suo moto proceedings were initiated for cancellation of the entry, and under the impugned order the same has been cancelled. All the three authorities have decided the matter against the petitioner.

2. Learned counsel for the petitioner placed reliance on the revenue records and the certificate at annexures A & B to show that the petitioner was an agriculturist holding land in village Bag (Gundaliyali) in Mandvi Taluka of Kutch District, but he has shifted to Pratapgadh village in Palitana Taluka in Bhavnagar District. In annexure-A the name of the person shown is Rajgor Babu Jevaram (Bag), but the name of the petitioner is Revashankar Jivram Katchhi. Therefore the name as entered in annexure-A is not tallying with the the name of the petitioner. The counsel for the petitioner contended that the petitioner's name is Rajgor Babu alias Revashanker. This discrepancy is to be found from document Kheduth Khatavani at annexure-G in respect of land of survey Nos.46, 706 and 76, which was also produced by the petitioner before the authorities, where the name is mentioned as Rajgor babu (Revashanker) Jeevram. This document is not disputed by the counsel for the respondents at this stage. This document has altogether been ignored, and as such there is error apparent on the face of the order of the authorities. This material piece of evidence has to be considered and after considering the same the decision should have been given. It is a case where the material piece of evidence has not been considered by the lower authorities.

3. The learned counsel for the petitioner contended that in the revision application before the State Government the petitioner raised specific plea that he was an agriculturist holding agricultural land of Survey Nos.46 and 706 of village Bag (Gandiyali) in Mandvi

Taluka of Ktch District, and out of those two survey numbers, survey No.706 was sold. The petitioner also produced Pani Patrak of Survey No.46 to show that he was an agriculturist. After looking at those documents I am satisfied that there is some substance in the contention of the petitioner he has alias name also.

4. In the result this special civil application succeeds. The order of the Additional Chief Secretary, Revenue Department (Appeals), Gujarat State, Ahmedabad, dated 12-9-1988 is quashed and set aside. The matter is remanded back to respondent No.1 for deciding the same afresh after considering the evidence aforesaid. Rule made absolute accordingly. No order as to costs.

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